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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/872,994	06/01/2001	Laurent Herrmann	PHFR 000059	3143

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EXAMINER

OSMAN, RAMY M

ART UNIT	PAPER NUMBER
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2157

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/872,994

Applicant(s)

HERRMANN ET AL.

Examiner

Ramy M. Osman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/21/2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. This communication is responsive to the amendment filed on July 21, 2005, where applicant amended claim 1. Claims 1-8 are pending.

Response to Arguments

2. Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 1 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The limitation "and available..." in step a) makes the claim limitation grammatically incorrect and unclear. It is not clear what is available to be sent.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 1-8 rejected under 35 U.S.C. 103(a) as being unpatentable over Grabelsky et al (US Patent No 6,678,250) in view of Ito et al (US Patent No 6,052,734).**

8. In reference to claim 1, Grabelsky teaches a processing system comprising at least a user terminal in a user location, a server coupled to said user terminal, a communication network, and an interface device located between said network and said user terminal, said interface device comprising:

(a) means for formatting incoming data received from said terminal into packets identified by headers and available to be sent towards said network (column 4 lines 35-55 and column 6 lines 40-45, RTP packets inherently include headers);

(b) means for identifying packets received from the network and forwarding them to the terminal (column 2 lines 10-40 and column 4 lines 60-67);

(c) means for managing and controlling, and handling a delivery monitoring service of said packets on the network, comprising:

a receiving stage for receiving incoming packets from the network (column 4 lines 63-67);

an analysis stage for analyzing the incoming packets (column 2 lines 10-40 and column 5 lines 35-57);

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a statistical processing stage for computing statistics based on analysis provided by the analysis stage (column 2 lines 10-40, column 5 lines 35-57 and column 7 lines 1-55); and

a formatting stage for creating packets to be sent toward said network (column 4 lines 60-67 and column 6 lines 40-50).

Grabelsky fails to explicitly teach managing and controlling an output bitrate comprising: an output bitrate adjusting stage for selectively adjusting the output bitrate based on the computed statistics, wherein the output bitrate is adjusted by providing a plurality of bitstreams encoded at different bitrates and selecting one of the plurality of bitstreams based on the computed statistics.

However, Ito teaches an intermediary system monitoring and controlling real time data transmission to receivers over a network for the purpose of preventing congestion, packet loss and other network impediments (Abstract and column 1 lines 5-16 & 50-67). Ito discloses adjusting and selecting a transmission rate based on RTCP statistics (column 4 line 35 – column 5 line 12).

It would have been obvious for one of ordinary skill in the art to modify Grabelsky to comprise an output bitrate adjusting stage for selectively adjusting the output bitrate based on the computed statistics, wherein the output bitrate is adjusted by providing a plurality of bitstreams encoded at different bitrates and selecting one of the plurality of bitstreams based on the computed statistics as per the teachings of Ito for the purpose of preventing congestion, packet loss and other network impediments.

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9. In reference to claim 2, Grabelsky teaches the system of claim 1, wherein means for formatting incoming data into packets identified by headers is configured to:

format the incoming data into real-time protocol (RTP) packets; and send the RTP packets with RTP headers towards the network (column 4 lines 35-55 & 60-65 and column 6 lines 40-45).

10. In reference to claim 3, Grabelsky teaches the processing system of claim 1, wherein the means for identifying packets received from the network and forwarding them to the terminal is configured to: receive real-time protocol (RTP) packets from the network; and store data in view of the transmission to a current application running on terminal (column 4 lines 60-67 and column 6 lines 17-30).

11. In reference to claim 4, Grabelsky teach the processing system of claim 1, wherein the receiving stage receives real-time control protocol (RTCP) packets arriving from the network (column 5 line 65 – column 6 line 25).

12. In reference to claim 5, Grabelsky teach the processing system of claim 4, wherein the analysis stage analyzes the (RTCP) packets arriving from the network (column 5 lines 35-57).

13. In reference to claim 6, Grabelsky teach the processing system of claim 5, wherein the statistics processing stage computes statistics when real-time protocol (RTP) packets are received from the network and when RTCP packets are received or sent (column 5 lines 35-57 and column 6 lines 1-25).

14. In reference to claim 7, Grabelsky teach the processing system of claim 6, wherein the statistics computed when real-time protocol (RTP) packets are received from the network

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comprise at least one of a number of RTCP packets received, packet loss, and delays (column 5 lines 35-57, column 7 lines 17-60 and column 10 lines 15-35).

15. In reference to claim 8, Grabelsky teach the processing system of claim 6, wherein the statistics computed when RTCP packets are receive or sent comprise an error rate (column 5 lines 35-57, column 7 lines 17-60 and column 10 lines 15-35).

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

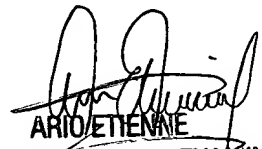
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramy M. Osman whose telephone number is (571) 272-4008. The examiner can normally be reached on M-F 9-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RMO
September 12, 2005


ARIO ETIENNE
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